

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Trigen, LLC,
Appellant,

and

Pella Corporation,
Appellant,

v.

Marion County Board of Review,
Appellee.

ORDER

Docket No. 13-65-0174
Parcel No. 16993-005-0

Docket No. 13-65-0175
Parcel No. 16993-004-10

On April 23, 2014, the above-captioned appeals came on for hearing before the Iowa Property Assessment Appeal Board. The appeals were conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Attorney Dennis Ogden of Belin McCormick, PC, represented Appellants Trigen, LLC, and Pella Corporation. Assistant Marion County Attorney Ben Hayek represented the Marion County Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

Background & Procedural History

These appeals involve the 2013 assessments of two parcels of real property located at 102 Main Street, Pella, Iowa. The two parcels have separate ownership: Pella Corporation owns the larger parcel, and Trigen owns the smaller parcel. However, Pella Corporation currently operates both parcels as a single unit for manufacturing, warehousing, and corporate headquarters of Pella Windows and Doors. The total campus includes 46 buildings. (Exhibit 2).

According to the property record card, parcel 16993-005-0 (Docket 0174) is a 12.49-acre, industrially classified lot owned by Trigen. It is improved with a light manufacturing building (Building 16), constructed in 1988 with roughly 208,636 square feet of gross building area. (Exhibit 4). It also includes some office space. The site has approximately 170,000 square feet of paved parking and driveways as well as its own street frontage to the north on South Street and access to the south and east by the larger, adjoining parcel.

Parcel 16993-004-10 (Docket 0175) is a 76.240-acre, industrially classified lot owned by Pella Corporation. It is improved with multiple buildings constructed between 1925 and 2006. The total gross building area of the improvements on this parcel, according to the owner, is roughly 1,566,000 square feet. The buildings include offices and reception areas; an auditorium; manufacturing; warehouse; and maintenance buildings. The record indicates the total office space for this parcel is roughly 251,000 square feet or about 16% of the gross building area. The site also includes approximately 957,000 square feet of pavement for parking and drives. The site, as a whole, has multiple access points from South Street and South Clark Street.

Pella and Trigen protested the assessments to the Marion County Board of Review contending they were over-assessed under section 441.37(1)(a)(2). They asserted the correct combined value of the two parcels was \$19,325,000.

The Board of Review denied the petition on Trigen's parcel, but reduced the assessment of Pella's parcel. The following chart outlines the original 2013 assessments and values following the Board of Review's decisions.

Docket	Parcel	2013 Land Value	2013 Improvement Value	2013 Total AV	BoR Decision
13-65-0174	16993-005-0 (Trigen)	\$234,190	\$4,682,330	\$4,916,520	\$4,916,520
13-65-0175	16993-004-10 (Pella)	\$1,504,500	\$18,659,430	\$20,163,930	\$19,423,900
			Total	\$25,080,450	\$24,340,420

The Appellants then appealed to this Board. On their petition forms to this Board, the Appellants contended the parcels' correct assessments were \$15,460,000 for Pella's parcel and \$3,865,000 for Trigen's parcel, for a total value of \$19,325,000. However, at hearing they asserted the correct total value for both parcels *combined* was \$10,600,000, which is based on an appraisal completed by Fred Lock. After the hearing, Lock amended his appraisal, resulting in a new value of \$6,660,000, which the Appellants now believe is the correct fair market value of the two parcels combined.

General Testimony

Steve Van Weelden

Steve Van Weelden is the Engineering Team Leader for Facilities and Plant Services at Pella Corporation. Van Weelden testified regarding the condition and upkeep of the subject properties, as well as the public access to each parcel. The majority of Van Weelden's direct testimony was about the Trigen parcel. Essentially, Van Weelden does not believe the Trigen parcel can be separately valued or sold from the Pella parcel. Although it is Van Weelden's belief the properties cannot be sold separately, he does not provide any evidence to support this opinion. He explained that Pella's manufacturing process takes place in stages, and identified these as "Areas 1-4." (Exhibit 2). Essentially, the raw materials enter the facility and are processed until the final product is completed.

Van Weelden testified he does not believe the Trigen parcel has adequate ingress/egress as a stand-alone manufacturing facility. He explained the only street frontage this property has is off South Street, which is a residential area of Pella where truck traffic is currently discouraged or prohibited. Further, he noted there have been complaints about truck traffic using this entrance. The only current truck ingress/egress is across Pella's parcel.

He also testified that Trigen does not have its own heating source or direct electrical service from the City. He explained the heat for this parcel is steam-generated from the Pella parcel, specifically Building 12. In addition, the electrical service access is from a “feed” from the Pella parcel. Van Weelden testified that if Trigen were sold separately, the buyers would have to create their own heating and electrical or arrange with Pella for access to the existing heating and electrical sources.

During cross-examination, Van Weelden explained on-going routine maintenance and updating to the entire Pella campus occurs regularly, including maintenance and updating for the Trigen parcel. Further, when questioned about the dependency of Trigen to the Pella parcel, Van Weelden testified he was unaware of the legal relationship between the two owners that would currently allow for the provision of access and utilities to the smaller parcel.

Robert Ehler Testimony

Robert Ehler is the President of Vanguard Appraisal. Ehler’s testimony explained the original assessment process for the subject properties. He explained Vanguard provides mass appraisal services to assessment jurisdictions throughout the Midwest. They also develop software used by roughly 265 different assessment offices. He explained that in a typical reappraisal contract, Vanguard provides values for either a single class of property or all of the property in a jurisdiction. Vanguard conducted a mass appraisal for Marion County for the 2013 assessment including valuation of the subject parcels. He testified approximately fifteen Vanguard employees would have worked on the Marion County project for about one year.

Ehler explained the general process to value property includes an inspection of the property, a calculation of the replacement cost of every structure, analysis of every sale, and an income statement questionnaire. The questionnaire would be sent to every parcel owner asking

for cost, income, and lease information. He testified that Pella did not return the income and lease questionnaire. He further explained there is no penalty if a property owner fails to return the questionnaire, but it limits the information Vanguard has to make value conclusions. He further testified the responses are typically “well under 50%.”

Ehler described the primary assessment process as the cost approach. Ehler explained Vanguard looks at income and sales data, but the *delivery* of the conclusion of values is through the cost approach. He explained mass appraisal differs from a fee appraisal in that the concern is not just with a particular market value but also equity between all of the properties in a class within the jurisdiction because fairness between the assessed values is very important. In Ehler’s opinion, the cost approach results in the most equitable values between properties, and this is why the approach is used in the assessment of almost every property in the country.

While Ehler was not directly involved in gathering the data for Trigen and Pella or the analysis, he reviewed the work completed for the County and noted an issue regarding obsolescence for large industrial properties in the jurisdiction. Ehler testified sales of industrial properties in the Pella area were consistently higher than sales of industrial properties in similar size communities. He noted the same trend in Orange City, Iowa, which he described as another similar “Dutch settlement.” After analyzing the data, Ehler and Vanguard determined industrial properties in Pella required a lower obsolescence adjustment compared to a town of similar size. This resulted in an economic obsolescence adjustment of 20%, rather than a 30% adjustment; thus increasing the value of the property as compared to similar property in other like-sized communities.

Ehler believes it was proper to value the subject parcels separately. In particular, he points to the size adjustment, specifically the Trigen parcel would be significantly different from

the Pella parcel. He further notes the Trigen parcel is newer and suffers from less functional obsolescence; therefore, its value on a per-square-foot basis would be much higher than the Pella parcel. Finally, he bases this opinion on the fact that the two subject properties have separate ownership.

Ehler does not believe in excluding approaches to value for the subject property. He acknowledged the sales comparison approach was an obvious approach to develop; however, within the sales approach adjustments need to be made for factors like size, age, quality, amount of finish. He asserts the development of the cost approach “helps give a feel for those different components” and offers support for adjustments in the sales comparison approach.

When Pella questioned Ehler about the sales used during Vanguard’s mass appraisal assignment of the subject property, Ehler explained that Vanguard looks at sales and uses the information to help set value for the properties. The sales are broken down by components (units of comparison) that are then used to value all similar properties. Vanguard does not complete a sales comparison approach like a fee appraiser would perform. Nevertheless, Ehler asserts this is recognized analysis and methodology of all assessments in Iowa.

Pella was critical of Ehler for not developing a traditional sales comparison approach similar to that of a fee appraiser. However, Ehler emphasized sales were considered in the valuation processes employed by Vanguard and data from those sales was included in the cost approach ultimately relied on, which is traditional for mass appraisal. Moreover, Ehler describes the mass appraisal process is different than a fee simple appraisal because the former requires that equity be maintained throughout the class of properties valued, whereas the latter only focuses on a specific property’s market value as compared to select sales and would likely result in inequities if all properties were valued singularly.

Ehler's testimony provides an explanation of the mass appraisal process and a history of the subject's assessment. However, the Board of Review reduced the assessment on the Pella parcel and Ehler did not provide any testimony regarding the value of the properties based on the sales comparison approach to value. Because there are three appraisals in the record indicating the properties are over-assessed, we do not rely on Vanguard's valuation for the original assessments, although we recognize it was the appropriate methodology for the initial assessment.

Beau Leidigh Testimony

Beau Leidigh, Tax Director for Pella Corporation, testified regarding the sale of another Pella property located at 1701 Broad Street, Story City, Iowa. (Exhibit N.) Leidigh testified the sale of this property, which occurred in September 2012, was a transfer between two related business parties due to a restructuring between Trigen and Pella. Ultimately, Leidigh did not testify regarding the market value of the subject properties and the Story City transaction was not considered by any of the appraisers in these appeals. We give no weight to his testimony or Exhibit N.

Appraisals

The record includes three appraisals.

Roos Appraisal

Jason Roos of Shaner Appraisals, Inc./Valbridge Property Advisors, Overland Park, Kansas, completed an appraisal of the subject properties and testified on behalf of the Appellants. (Exhibit 6). Roos concluded a combined final opinion of the properties fee simple market value at \$17,800,000, as of January 1, 2013. He then allocated this value between the

two subject parcels based on square footage as set forth in the following chart. (Exhibit 6, cover letter p. 3).

Parcel	16993-004-10 (Pella)	16993-005-0 (Trigen)
Square Footage	1,569,921	206,100
Percentage of Total	88%	12%
Allocation of Value	\$15,664,000	\$2,136,000

We note Roos relies on 206,100 square feet for the building area to value Trigen; but, his report indicates this building has 209,700 square feet. (Exhibit 6, Appraisal p. 17). Despite the discrepancy, we find the difference between the numbers would result in a nominal change in his overall conclusions. In Roos' opinion the parcels should be valued together because they are "intertwined," and the Trigen parcel is dependent for its heating and electric on the Pella parcel.

Roos relied exclusively on the sales comparison approach to value. Roos believes there is insufficient available data to develop the income approach. He explained that because of the subject's size, an owner-operator would likely be the only purchaser; or it would be a sale-leaseback, which he believes may not reflect the value of the real estate. In his opinion, "a typical or even a specialized investor would not consider this property as an income property and would not purchase it as such." (Exhibit 6, Appraisal, p. 50). Additionally, Roos chose not to develop the cost approach because of physical and economic depreciation. He also asserted, "Market participants do not typically rely on this approach to determine market value for this type of property." (Exhibit 6, Appraisal p. 37).

Roos included six sales of industrial manufacturing buildings in his sales comparison analysis. (Exhibit 6, Appraisal pp. 38-44). He based his search parameters on industrial manufacturing properties located in the central United States that sold since January 1, 2009. (Exhibit 6, Appraisal p. 38).

Roos did not make quantitative adjustments for differences between these properties and the subject. Roos' appraisal states,

No adjustments have been made to the comparable sales included herein, *as the wide variance in size, location, date of construction, quality* and previous use would make specific adjustments subjective and less reliable. Instead the appraiser has relied on the reported unit sales prices, having limited the sales to those thought to be most comparable to the subject.

(Exhibit 6, Appraisal p. 39) (emphasis added).

At hearing and in his report, Roos testified the final ranking of the properties was based on the "reported unit sales prices." (Exhibit 6, p. 39). He further explained he positioned the sales in ascending order in his report based on the unadjusted price-per-square-foot of the comparable properties. (Exhibit 6, Appraisal pp. 44, 49). He based his value opinion of \$10.00 per-square-foot on these unadjusted sales prices.

On cross-examination, Roos was asked what level of adjustment he would tolerate to consider a sale comparable. Roos indicated he had not analyzed that and could not answer. Roos also stated, regarding how his sales were weighted based on rankings of superior, inferior or similar, that the sales could be "superior by \$1.00 or \$1,000,000."

Roos provided detailed explanation, in both his report and his testimony, for his opinion on whether the comparable sales were similar, superior, or inferior in specific elements of comparison. But he admitted in testimony that his report contains no explanation of how much weight he gave to each of the individual differences. Because he identifies the comparable sales as having a "wide variance" in several components of comparison we find the sole use of qualitative analysis limits this Board's ability to fully understand the actual comparability of these sales to the subject and if his conclusions are reasonable. Moreover, he ultimately relied on unadjusted sale prices of comparable properties identified as having wide variances.

Lock Appraisal

Fred Lock of Iowa Appraisal and Research Corporation, Des Moines, Iowa also completed an appraisal of the subject properties and testified on behalf of the Appellants. (Exhibit 5). Lock actually submitted two appraisals to this Board. The first appraisal valued the subject properties combined at \$10,660,000 as of January 1, 2013, based on a \$6.00 per-square-foot value. (Original Exhibit 5). Following hearing, however, Lock revised his appraisal after acknowledging an error. He now concludes the subject properties combined value is \$6,660,000 based on a \$3.75 per-square-foot value. (Revised & Corrected Exhibit 5 p. 2). Like Roos, Lock allocated his total conclusion of value to the two subject parcels. (Revised & Corrected Exhibit 5, p 3).

Parcel	16993-004-10 (Pella)	16993-005-0 (Trigen)
Square Footage	1,569,921	206,100
Value assigned per SF	\$3.75/sf	\$3.75/sf
Allocation of Value	\$5,891,000	\$773,000

Lock, like Roos, believes that although the subject parcels have two separate owners, they have a unity of use and purpose, share common physical elements, and would not be sold separately. He thus concluded one value and allocated it based on the square footage of the buildings. Lock testified he was aware of and had seen the lease between the two parties, but he could not recall any details of the legal relationship or lease.

Also like Roos, Lock relied exclusively on the sales comparison approach to value. Lock did not develop the income approach because he testified he was unable to find leases of similar large industrial properties, and he did not believe that using leases on smaller buildings would be appropriate. His appraisal also states his belief that properties like the subject are not leased

“except where they have been purchased for alternative uses and divided into smaller units.”
(Revised & Corrected Exhibit 5, p. 6).

Likewise, Lock did not develop the cost approach. He testified this was because he believed the cost approach would not be meaningful because of the age of the building and the large amount of depreciation, including obsolescence that would require consideration. His testimony is similar to his report. (Revised & Corrected Exhibit 5, p. 24).

In developing the sales comparison approach, Lock considered sales of large industrial manufacturing properties located in Iowa, as well as outside of Iowa. He relied on four sales and made both quantitative and qualitative adjustments for differences in various elements of comparison. (Revised & Corrected Exhibit 5 pp. 25-28). Quantitative adjustments were made for date of sale (market conditions), location, age/condition, percent of finish (such as office space and auditoriums), and land/building ratio. Qualitative adjustments were made for size.

Lock explained some of his adjustments. He noted his location adjustments were based on the property’s proximity to a four-lane highway, as well as the number of households in a five-mile radius. (Revised & Corrected Exhibit 5 p. 27). He believes the number of households in the area is important as it serves as an employee base for the manufacturing firms. Thus, a bigger employee base results in a superior location adjustment.

Lock’s age and condition adjustments took into account both the effective age and condition of the subject and comparable properties. (Revised & Corrected Exhibit p. 28). Lock did not report the effective age of the sales, but it was how he based his adjustments. He explained he never includes that information in the appraisals. Additionally, Lock explained he did not make any adjustments for wall height because he does not believe this is a relative adjustment for a manufacturing property. However, his testimony conflicts with his appraisal,

which states “a higher exterior wall height is more expensive to construct and make manufacturing and warehouse space more desirable for a wide range of users.” (Revised & Corrected Exhibit 5, p. 28).

Lock made negative qualitative adjustments to Sales 2 and 4 because they are smaller than the subject. He indicated this by displaying “minus” signs on his grid. (Revised & Corrected Exhibit 5, p. 26). After all adjustments for differences, the *original* indicated value range was \$2.57 to \$6.37 per-square-foot. (Original Exhibit 5, p. 26). Ultimately, he considered Sale 1 the primary indicator of value and reconciled a market value of \$6.00 per-square-foot.

On cross-examination, Lock was questioned about the sales price of Sale 1 and its status as a contaminated site, which Lock identified as a condition at the time of sale. (Revised & Corrected Exhibit 1, Addendum). He testified that he talked to the broker and another appraiser who told him the City would provide some money to offset the cost of remediation; and therefore, he thinks this mitigates the “disaster” and no adjustment was necessary. Regarding the sales price, Lock noted an error between his grid and addendum, reporting \$19,575,000 in one place and \$13,575,000 in another. Lock stated that if he were incorrect in reporting the \$19,575,000 sales price, then his adjusted conclusions would be even lower, around \$3.00 per-square-foot. Following the contested case hearing, Lock revised his report to account for this error and two other “minor fact errors.” (Revised & Corrected Exhibit 5, Affidavit, p. 2). He thus concluded a price-per-square-foot for the subject property of \$3.75. His new indicated value range is \$2.57 to \$3.75 per-square-foot. (Revised & Corrected Exhibit 5 p. 26).

Russ Manternach Appraisals

Russ Manternach of Commercial Appraisers of Iowa, Inc., West Des Moines, Iowa completed an appraisal for each of the subject properties and testified on behalf of the Marion County Board of Review.

Manternach individually valued the Trigen and Pella's parcels rather than determining a combined value. He explained the two properties are easily divisible with each having their own street frontage and they vary in size and age. He also noted the properties were separately owned. Manternach used the same methodology and developed all three approaches to value for each parcel. His conclusions are set forth in the following chart.

	Cost Approach	Income Approach	Sales Comparison Approach	Final Opinion
16993-004-10 (Pella)	\$20,200,000	\$18,200,000	\$18,100,000	\$18,200,000
16993-005-0 (Trigen)	\$4,220,000	\$3,250,000	\$3,280,000	\$3,280,000

Manternach testified Pella provided him with the gross building area for the larger Pella parcel, which differed slightly from the assessment records. Because the discrepancy was minimal, Manternach relied on Pella's estimates. However, he used the Assessor's records for the smaller Trigen parcel. Pella was critical of Manternach's reporting of Trigen's improvement size. We note that all three appraisers appeared to use different sizes and Manternach could not have known Roos and Lock were using different sizes as he was not provided their appraisals until after he completed his assignment. Ultimately, we not find the differences to be significant enough to affect the value conclusions of any of the appraisals submitted.

Pella Parcel Appraisal

Manternach described the Pella parcel as having a large amount of good quality office space that has been updated regularly throughout the years. The property features a large two-

level atrium, a large auditorium, conference rooms, and additional atrium areas. A substantial portion of the facility is used for warehouse space that could be used for other industrial uses. There is also manufacturing that takes place at the facility. Manternach noted the subject parcel has extensive site improvements with over 950,000 square feet of surface paving, which adds to property value. Manternach testified the property was built in many phases and he estimates a weighted average year built of 1972. He also noted the owner reported a portion of the roof was due for replacement as of the date of valuation. Manternach considered the owner's costs of replacement to be reasonable, and applied \$700,000 deferred maintenance throughout the three approaches and in his conclusions.

In developing the cost approach, Manternach did a land sales comparison approach to arrive at his conclusion of \$1,030,000 as if vacant. (Exhibit L, pp. 33-35). He then relied on Marshall Valuation Service, a national cost service, and estimated replacement costs of the building, adjusting for wall types, construction type, and various multipliers. (Exhibit L, p. 38). He arrived at a cost new of the improvements of approximately \$77,500,000. After deducting depreciation and obsolescence, he then added site improvements and land value to arrive at an opinion of \$20,200,000. (Exhibit L, pp. 36-38). Manternach explained the cost approach, in this case, set the upper end of his range of the three approaches he developed.

Manternach also developed the income approach to value and testified he did not have any difficulty ascertaining data to develop this approach. He provided a summary of roughly fifteen comparable leases he used to estimate market rent. (Exhibit L, p. 45). Manternach testified he did not have lease data on the subject properties but was aware of a lease between Trigen and Pella for the smaller subject parcel. A copy of that lease was not provided to him.

Manternach found leases ranging from \$1.84 to \$4.12 per-square-foot. The properties he used were smaller than the subject so he adjusted them downward for that factor. Many were also adjusted downward because they were not built in multiple phases like the subject. Manternach also considered other factors, such as wall height and quality. He ultimately reconciled to a value of \$1.75 per-square-foot for the subject property, which does not account for the deferred maintenance. (Exhibit L, p. 45). Considering vacancy and collection loss, Manternach arrived at an effective gross income of \$2,329,903. He subtracted expenses incurred by the owner, including taxes, to arrive at a net operating income (NOI) of \$1,775,854. (Exhibit L, p. 49).

Manternach then estimated a capitalization rate. He extracted some capitalization rates from mortgage sales; he used a mortgage equity analysis; and an investment bulletin, which is a national survey of capitalization rates. He arrived at a capitalization rate of 9.39%, which was loaded for taxes that were not considered in the NOI. (Exhibit L, pp. 50-51). After applying the capitalization rate to the NOI and deducting for the deferred maintenance, Manternach concluded an opinion of value for the Pella property by the income approach of \$18,200,000. (Exhibit L, p. 52).

Lastly, Manternach developed the sales comparison approach using four sales, all located in Iowa. (Exhibit L, pp. 39-43). While he said he found sales outside of the state, he felt these four were the most comparable. He explained his sales were located in similar communities and were large manufacturing facilities with many of the same characteristics and market factors as the subject property. He adjusted each sale for differences and determined a range of value of \$9.74 to \$14.64 per-square-foot. (Exhibit L, p. 40). He reconciles to \$12.00 per-square-foot for

the subject property and, after accounting for deferred maintenance, arrived at an opinion of \$18,100,000 by the sales comparison approach. (Exhibit L, p. 43).

In reconciling a value for the Pella property, Manternach gave less weight to the cost approach because of the substantial amounts of accrued depreciation. He considered the income and sales comparison approaches equally, and arrives at a final opinion of \$18,200,000, as of January 1, 2013, for the Pella property.

Trigen Parcel Appraisal

Manternach followed the same methodology and developed all three approaches to value for the Trigen property. (Exhibit M). His conclusions on the Trigen property are as follows:

	Cost Approach	Income Approach	Sales Comparison Approach	Final Opinion
16993-005-0 (Trigen)	\$4,220,000	\$3,250,000	\$3,280,000	\$3,280,000

He explained the primary differences between this property and the Pella property is that this building is significantly smaller, newer, and it has substantially taller wall heights. The Pella property has an average wall height of 23 feet, whereas the Trigen property has an average wall height of 31 feet. These factors result in some differences between the two appraisals. Further, this property also had some deferred maintenance, in this case a paved access road that was in need of replacement. The road replacement occurred in 2013 at a cost of \$370,000. Similar to the other appraisal, Manternach completed his approaches and subtracted that amount of deferred maintenance to reflect the “as is” value of the Trigen property for the 2013 assessment.

On cross-examination, Manternach was asked if he believed it was realistic that Pella would sell the Trigen parcel by itself. Manternach explained he valued the property to a typical owner/user, not specifically to Pella. Moreover, whether Pella *chose* to sell the Trigen property

or not, it *could be* sold separately. He further noted simply that the property is heated, but he did not know if it had its own system or if it received heat from the central campus (Pella parcel). Regardless, Manternach valued the Trigen property as having heat because an owner would have to pay a market rent for heat or add a heating system if one did not exist.

Further, we note that Trigen's use as of January 1, 2013, included heat; therefore, it would be appropriate to value it that way. We also note that although the subject properties currently operate jointly under Pella Corporation, they are owned by separate legal entities. Because of this, it would be reasonable to assume a lease or similar agreement is in place for the utilities and access to the improvements. It would also be reasonable to assume that if the properties sold for separate uses or to different buyers that the purchase of the Trigen property would be contingent upon service and access issues.

Pella was also critical of Manternach for using improved comparable sales that were much smaller than the Pella parcel and were only located in Iowa. Manternach testified he had considered sales outside of Iowa, but ultimately relied on the Iowa sales because he felt they were more representative of the Pella property. Further, Manternach indicated there were similar-sized industrial/manufacturing sales in Iowa, but one he references was located in Des Moines. He did not include this sale because he felt the location adjustment would offset any size adjustment.

Manternach also provided comments regarding Roos' and Lock's appraisals. First, Manternach was critical of the fact that both appraisers valued the properties together, and then simply allocated the total value based on a single value per square foot. Manternach asserts this is misleading because the Trigen property is much newer, much smaller, and has superior wall height compared to the Pella improvements. For these reasons, he does not believe Trigen would

have the same value per-square-foot as the Pella property. Because he valued the properties separately, his conclusions result in a different per-square-foot value for each of the parcels. The Pella parcel, which Manternach valued at \$18,200,000, indicates a value per-square-foot of \$11.62. His opinion of value for Trigen, of \$3,280,000, indicates a value per-square-foot of \$15.72.

He was also equally critical of the fact that neither appraiser completed the cost or income approaches to value. Manternach believes there was ample and reliable lease and rental data available for analysis. He asserted there are “all kinds of large buildings” that are leased by single tenants. He notes it can be a corporate decision to free up capital by leasing buildings rather than owning them. He also believed the cost approach is a valid and a typical investor would like to know the replacement costs of the improvements as well as the land value. While Manternach gave minimal weight to this approach, he stated depreciation and obsolescence can be estimated and he does not believe this is sufficient for not developing it.

Regarding Roos’ appraisal, Manternach questioned Roos’ condition rating of the improvements and use of out of state sales. As it related to the condition rating, he noted Roos stated there has been significant on-going maintenance, and a budget of \$2,000,000 for capital improvements each year, but then gave the improvements average or average-to-fair condition for its age. Manternach asserts this amount of continued maintenance and funding for improvements would likely result in a property in above-average condition for its age. Regarding Roos’ choice of sales, Manternach agrees with Roos, that there were no other large industrial property sales in Pella, but believes there were Iowa sales available for consideration. Further, he does not believe the exclusive use of qualitative analysis is appropriate and does not believe Roos provides adequate support for his opinion.

Regarding Lock's appraisal, Manternach noted Lock identified the subject property's condition differently throughout the report. He notes Lock identifies on page 17 and 23 of his report, that the finish is average to good, with the executive areas being very good, but in the sales comparison approach, Lock identifies the subject as average condition. Manternach also believes the use of two 2007 sales by Lock, for a 2013 valuation should be given less consideration. Manternach also questioned whether the contamination identified with Lock's Sale #1 would have an impact not addressed by Lock. Manternach stated that even if a property has funds for mitigation, contaminated properties often carry a stigma that could additionally affect the sale price.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

General Principles of Law Applicable to Assessment of Real Property

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). "Market value"

essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.*; *Compiano v. Marion Cnty. Bd. of Review*, 771 N.W.2d 392, 396 (Iowa 2009). “[A]bnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to eliminate the effect of factors which distort market value.”

§ 441.21(1)(b). If sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2). The assessed value of the property shall be one hundred percent of its actual value. § 441.21(1)(a).

Burden Shifting

Initially, the burden of proof in an assessment protest rests with the taxpayer, who “must establish a ground for protest by a preponderance of the evidence.” *Compiano*, 771 N.W.2d at 396. However, if the taxpayer “offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden shifts to the board of review to uphold the assessed value.” *Id.* at 396-397; § 441.21(3). Failure to shift the burden of proof is not equivalent to failing to satisfy the burden of proof. *Id.* at 397. “Ultimately, the burden of proof is one of persuasion,” which “comes into play after all of the evidence is introduced at hearing.” *Id.* at 397 n.3.

Competency of Evidence and Comparables

The sales-comparison method is the preferred method for valuing property under Iowa law. *Compiano*, 771 N.W.2d at 398; *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 779 (Iowa 2009); *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990). “[A]lternative methods to the comparable sales approach to valuation of property cannot be used when *adequate* evidence of comparable sales is available to *readily* establish market

value by that method.” *Compiano*, 771 N.W.2d at 398 (emphasis added). “Thus, a witness must first establish that evidence of comparable sales was not available to establish market value under the comparable-sales approach before the other approaches to valuation become competent evidence in a tax assessment proceeding.” *Id.* (citing *Soifer*, 759 N.W.2d, at 782); *Carlson Co. v. Bd. of Review of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997). The first step in this process is determining if *comparable* sales exist. *Soifer*, 759 N.W.2d at 783. If PAAB is not persuaded as to the comparability of the properties, then it “cannot consider the sales prices of those” properties. *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)).

Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.

Id. at 783 (citing *Bartlett & Co. Grain*, 253 N.W.2d at 94).

Generally, the burden of proof is on the taxpayer to prove one of the statutory grounds for protest by a preponderance of the evidence. § 441.21(3); *Compiano*, 771 N.W.2d at 396.

However, if the taxpayer

offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden of proof thereafter shall be upon the officials or person seeking to uphold such valuation to be assessed. *Id.*

“Evidence is competent under the statute when it complies with the statutory scheme for property valuation for tax assessment purposes.” *Compiano*, 771 N.W.2d at 398. “[M]arket-value testimony by a taxpayer’s witnesses under a comparable-sales approach is ‘competent’ only if the properties upon which the witnesses based their opinions were comparable.” *Soifer*, 759 N.W.2d at 782.

“Factors that bear on the competency of evidence of other sales include, with respect to the property, its ‘[s]ize, use, location and character,’ and, with respect to the sale, its nature and timing. *Id.* at 783 (other citations omitted). Likewise, “[t]he use to which comparable properties are put need not be identical to the use of the assessed property.” *Hy-Vee Food Stores, Inc. v. Carroll Cnty. Bd. of Review*, No. 3-546 / 12-1526 (Iowa Ct. App. October 2, 2013) (unpublished) (citing *Soifer*, 759 N.W.2d at 785). “Nonetheless, a difference in use does affect the persuasiveness of such evidence because ‘as differences increase the weight to be given to the sale price of the other property must of course be correspondingly reduced.’ ” *Soifer*, 759 N.W.2d at 785 (quoting *Bartlett & Co. Grain*, 253 N.W.2d at 93).

Finally, assessors are permitted to consider the use of property as a going concern in its valuation. *Riso v. Pottawattamie Cnty. Bd. of Review*, 362 N.W.2d 513, 517 (Iowa 1985). When an assessor values property as a going concern, “he is merely following the rule that he must consider conditions as they are.” *Soifer*, 759 N.W.2d at 788 (quoting *Maytag Co. v. Partridge*, 210 N.W.2d 584, 590 (Iowa 1973)). The assessor is “recognizing the effect of the use upon the value of the property itself. He is not adding on separate items for good will, patents, or personnel.” *Id.*

Appraisers’ Opinions of Market Value

Based on our findings of fact and foregoing recitation of Iowa law, we conclude the following:

We find all of the appraisers in this case adequately defined the value they intended to capture as market value consistent with the Iowa Code. In this case, Pella and Trigen assert they have shifted the burden of proof to the Board of Review. Pella and Trigen have provided value evidence from two disinterested witnesses. Both of these appraisers also completed the

comparable sales approach to value using sales they selected as comparable to the subject property. According to the Iowa Supreme Court, “market-value testimony by a taxpayer’s witnesses under a comparable-sales approach is ‘competent’ only if the properties upon which the witnesses based their opinions were comparable.” *Soifer*, 759 N.W.2d at 782 (noting “If the distorting sale factors or the points of difference between the assessed property and the other property are not quantifiable so as to permit the required adjustments, the other property will not be considered comparable.”); *Boekeloo*, 529 N.W.2d at 279; *Bartlett & Co. Grain v. Bd. of Review*, 253 N.W.2d 86, 88 (Iowa 1977)). If they are, an opinion would “constitute ‘competent evidence’ and the burden of persuasion” shifts, “otherwise it does not shift.” *Bartlett & Co. Grain*, 253 N.W.2d at 88. *Soifer*, 759 N.W.2d at 783. However, the *Soifer* Court also stated the approach followed in Iowa is “[W]here the properties are reasonably similar, and a qualified expert states his opinion that they are sufficiently comparable for appraisal purposes, it is better to leave the dissimilarities to examination and cross-examination than to exclude the testimony altogether.” *Id.* (internal citations omitted). In this case, despite Roos’ lack of quantitative adjustments in his sales comparison approach, it is prudent to find the burden shifted to the Board of Review. Just because the evidence is competent, however, does not mean it is credible. *Homemakers Plaza, Inc. v. Polk Cnty. Bd. of Review*, 2003 WL 105220105220 (Iowa Ct. App.) (citing *Soifer*, 759 N.W.2d at 785). The Board of Review also provided an appraisal for each of the parcels appealed and both are less than the assessment. Therefore, we must determine which of the appraisals is ultimately more credible and persuasive than the others in order to conclude a market value for the subject properties.

The three appraisers approached the assignment differently. In this case, there are two separately parceled and separately owned properties operating as a unit. Roos and Lock arrived

at a combined total value for the properties and allocated value to each parcel on a square-foot basis. Conversely, Manternach valued each parcel separately. Although both parties argue this fact is determinative in reaching an opinion of value for the properties, we do not need to determine if one approach is more reasonable than the other as we ultimately find Manternach's appraisal was the most persuasive evidence in the record.

Considering only the three sales comparison approaches to value, we decline to rely on Lock's sales comparison approach as it appears patently unreasonable. Lock's revised and corrected valuation is one-third of the value determined by the Appellants' other appraiser, Roos. The Appellants made no attempt to explain this discrepancy, yet still seek Lock's value for the assessments. Lock's sales comparison approach is also unreliable because the sale Lock gave primary consideration to was contaminated, and he provided no further explanation for why this factor should not be considered. Moreover, his initial report contained a reporting error of the sale price of this same comparable property. After correcting the error, his estimate of value was substantially reduced; and he still did not address the issue of the contamination. The significant effect of this reporting error and Lock's indifference to the contamination causes this Board to question the validity of his entire analysis. Further, his apparent lack of concern at the dramatic reduction caused by this single error also makes us doubt his credibility in arriving at his opinions.

Roos' appraisal is ultimately unreliable because he did not quantitatively adjust his comparable sales, even though he admitted there were wide variances in the comparability of the properties. Because he cannot quantify the necessary adjustments, this Board cannot reach a conclusion whether they are reasonably comparable. *Soifer*, 759 N.W.2d at 783. We note that despite his assertion that "specific adjustments [are] subjective and less reliable" the other two

appraisers were able to arrive at quantitative adjustments. (Exhibit 6, Appraisal p. 39)

Moreover, if it was determined that qualitative analysis was the appropriate method of analysis, it would seem useful to develop a second method of value as a check. Lastly, we find that because Roos allocated a total value, the results do not adequately account for differences between the two parcels.


Manternach, on the other hand, explained his analysis in detail and demonstrated in both his report and testimony that he verified the information he used. Manternach's sales represent arm's-length transactions of properties in Iowa that sold almost exclusively for continued use as industrial/manufacturing properties; only one sale apparently is used solely as a warehouse. Furthermore, in support of the sales comparison approach, Manternach developed the income approach using contemporary market rents. Likewise, although giving the value less weight, he developed the cost approach as an additional check on the value. Manternach's multiple appraisal techniques "lead to similar conclusions concerning the market value and therefore tend to support each other." *Heritage Cablevision*, 457 N.W.2d at 598. Manternach concluded a value for each parcel, independently, that is less than the current assessment.

For the foregoing reasons, this Board finds the Pella and Trigen properties are over-assessed as of January 1, 2013. The best evidence in the record established Pella's correct fair market value is \$18,100,000 and Trigen's correct fair market value is \$3,280,000 based on the statutorily preferred sales comparison approach.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment of the properties is modified as set forth herein.

The Secretary of the Property Assessment Appeal Board shall mail a copy of this Order to the Marion County Auditor and all tax records, assessment books and other records pertaining to the assessments referenced herein on the subject parcels shall be corrected accordingly.

Dated this 1st day of August 2014.



Karen Oberman, Presiding Officer



Jacqueline Rypma, Board Member

Copies to:

Dennis Ogden, Attorney
Belin, McCormick, PC
666 Walnut Street
Suite 2000
Des Moines, Iowa 50309
ATTORNEY FOR APPELLANT

Benjamin Hayek
Assistant County Attorney
214 E Main Street
Knoxville, Iowa 50138
ATTORNEY FOR APPELLEE

Jake Grandia
Auditor
214 E Main Street
Knoxville, Iowa 50138